

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on March 3, 1999 at 3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Hal Harper, Vice Chairman (D)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Rod Bitney (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Dan McGee (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 29, SB 98, SB 44, SJ 3,
3/1/1999
Executive Action: SB 29, SB 44, SB 98

Kathleen Williams, Legislative Services staff, resigned as bill drafter to take a new job. **EXHIBIT(nah48a01)** She distributed a bill status report. **EXHIBIT(nah48a02)**

HEARING ON SENATE BILL 29

Sponsor: Sen. John Hertel, SD 47, presented SB 29 as requested by the Department of Natural Resources and Conservation. The bill would allow the transfer of 11 canal projects to local water users.

Proponents: Jack Stultz, Division Administrator of Department of Natural Resources and Conservation, supported the bill. He submitted written testimony with background information.

EXHIBIT(nah48a03) {Tape : 1; Side : A; Approx. Time Counter : 7.8 - 10.5}

Mike Murphy, Montana Water Resources Association, went on record in support of the bill. **{Tape : 1; Side : A; Approx. Time Counter : 10.6 - 10.7}**

Opponents: None.

Questions from Committee Members and Responses: Rep. Curtiss asked about the dispersion of the project property. Stultz replied this was negotiated in the agreement before the property was transferred. **{Tape : 1; Side : A; Approx. Time Counter : 11.1}**

Closing by Sponsor: Sen. Hertel closed. He said this was a clean up proposal that would take out obsolete language in the statute.

EXECUTIVE ACTION ON SENATE BILL 29

Rep. Harper **MOVED DO CONCUR.** The question was called. The motion **PASSED** unanimously. Rep. Younkin agreed to carry the bill.

HEARING ON SENATE JOINT RESOLUTION 3

Sponsor: Sen. Vicki Cocchiarella, SD 32, presented the Resolution. The industry created their own guidelines which were completely successful. Best Management Practices (BMP) are now viewed as important considerations for state government to apply within their agencies. The programs are voluntary and when people are included in the decision making about enforcement or

compliance or how programs should operate, there is a greater degree of success. This is now known nationally as several other states have borrowed from Montana as Forestry BMP's. She described the guideline book. It is important for state agencies to adopt these practices. **{Tape : 1; Side : A; Approx. Time Counter : 16.5 - 20.8}**

Proponents: Patrick Heffernan, representing Montana Logging Association, described the successful program and its implementation through an educational, non-regulatory approach. **EXHIBIT(nah48a04)** He distributed the 1998 Forestry BMP Audit Report **EXHIBIT(nah48a05)** and the Streamside Management Zone Law & Rules pamphlet. **EXHIBIT(nah48a06)** He said this practice is used internationally. The reason for the success is it is simple and easy to understand. He suggested the Resolution also address an agency report of their progress. **{Tape : 1; Side : A; Approx. Time Counter : 20.8 - 25}**

Pat Graham, Director Fish, Wildlife and Parks, spoke in support of the Resolution. He provided written testimony recommending state agencies serve as role models for the implementation of Best Management Practices to protect water quality.

EXHIBIT(nah48a07) He described fishing access sites and rehabilitation projects and passed around photos of the site. **{Tape : 1; Side : A; Approx. Time Counter : 25.3 - 28.7}**

Cary Heggberg, Montana Wood Products Association, said the industry was committed and proud of their success. He pointed out this did not just apply to forestry but roads had the potential for sediment sources. His association was available for expertise. **{Tape : 1; Side : A; Approx. Time Counter : 28.7 - 30.1}**

Janet Ellis, Montana Audubon, said they were participants in the process. She suggested a mandatory process be looked at as well. **{Tape : 1; Side : A; Approx. Time Counter : 30.1 - 31}**

John Youngberg, Montana Farm Bureau, discussed stream impairment. He described a reservoir and the need for responsible action by the state. **{Tape : 1; Side : A; Approx. Time Counter : 31.3 - 32.8}**

Terry Wells, Montana Trout Unlimited, spoke in support of the bill. **{Tape : 1; Side : A; Approx. Time Counter : 32.8 - 33.2}**

Mike Murphy, Montana Water Resources Association, was a proponent for the bill. **{Tape : 1; Side : A; Approx. Time Counter : 33.5}**

Mike Volesky, Montana Association of Conservation Districts, was in support of the bill. He pointed out the lengths the forestry industry goes through to ensure these practices are carried out. These practices should apply to the county road crews as well.

{Tape : 1; Side : A; Approx. Time Counter : 33.9 - 34.7}

Opponents: None.

Questions from Committee Members and Responses: Rep. Ewer asked about compliance by the federal government since they have the most park land. Heffernan responded that the federal government had a huge amount of real estate to manage. In the past 6 or 8 years they have reduced their management on the ground and greatly increased their amount of paperwork analysis. Roads have become a very big issue for the U.S. Forest Service. There is a lot more maintenance they need to do relative to BMP's and sediment delivery to streams **{Tape : 1; Side : A; Approx. Time Counter : 35 - 38.7}**

Rep. Curtiss commented regarding sedimentation regarding the Forest Service road policy of road obliteration. She felt the BLM and the Forest Service should be requested to abide by the Best Management Practices. **{Tape : 1; Side : A; Approx. Time Counter : 38.7 - 39.6}**

Rep. Tash said this was addressed in the EQC discussions. The comparisons are conspicuous and federal agencies should be included. It was questionable how much authority state government would have over federal agencies. Sen. Cocchiarella said EQC had also considered adding local government to the resolution. However, they took the first step by asking state agencies to take the lead to be a role model. **{Tape : 1; Side : A; Approx. Time Counter : 39.6 - 43.2}**

Rep. Harper commented that the BMP's were a way to slow the destruction of streams, however, no other agency directors were in attendance. He pointed out the Legislature could be ordering agencies to adopt BMP's and to do it in a certain amount of time. He asked if there was any problems getting BMP's on the ground and done within a year. Director Graham replied there were over 300 fishing access sites, and to do the kind of work they did on Wolf Creek Bridge to every fishing access site would be physically impossible within a year. It would be extremely expensive and they would be short staff. However, the BMP's can be applied as activities occur into the future. **{Tape : 1; Side : A; Approx. Time Counter : 43.2 - 46.8}**

Rep. Erickson pointed out page 2 of the report that showed the progress that has gone on in meeting BMP's in the last 10 years.

When we start to take on the federal government we are looking at a minor part of what has gone on. Page 20 shows the effectiveness for BMP's for all of the ownership groups.

Closing by Sponsor: Sen. Cocchiarella closed.

HEARING ON SENATE BILL 98

Sponsor: Sen. Ken Mesaros, SD 25, presented SB 98 at the request of the EQC. This bill deals with the in-stream flow program to reauthorize the program. **EXHIBIT(nah48a08)** {Tape : 1; Side : A; Approx. Time Counter : 54.1 - 59.0}

Proponents: Pat Graham, Director Fish, Wildlife and Parks, presented written testimony regarding water leases.
EXHIBIT(nah48a09)

Mike Murphy, Montana Water Resources Association, spoke in support of the bill. He noted the contentious nature of the program ten years ago. He said John Blomquist of the Montana Stockgrowers Association and John de Young of the Montana Farmers Union were also in support of the bill. {Tape : 1; Side : B; Approx. Time Counter : 1.1}

John Youngberg, Montana Farm Bureau, said ten years ago their organization was opposed to the program. However, they are now in support and believe the program is well administered. {Tape : 1; Side : B; Approx. Time Counter : 1.1 - 1.8}

Mike Volesky, representing the Montana Association of Conservation Districts, spoke in support of the bill. He said this turned out to be a good program. There are safeguards worked into the program so both sides are comfortable. Some red tape is necessary.

Jerry Wells, Montana Council of Trout Unlimited and Montana Chapter of American Fisheries Society, supported the water leasing program reauthorization. He described the 1988 drought and the reason for the leasing program. {Tape : 1; Side : B; Approx. Time Counter : 2.7 - 5.3}

Opponents: None.

Questions from Committee Members and Responses: Rep. Stovall asked about the number of leases. Graham replied there was a need for more but the right circumstances had to be found in order to apply the lease. He described factors that were taken

into account. **{Tape : 1; Side : B; Approx. Time Counter : 5.3 - 7.6}**

Closing by Sponsor: Sen. Mesaros closed. He commented the program appeared to have a good track record and they would like to extend it another 10 years. **{Tape : 1; Side : B; Approx. Time Counter : 15.3}**

HEARING ON SENATE BILL 44

Sponsor: Sen. Alvin Ellis, SD 12, presented SB 44. He described a hearing 10 years ago on in-stream flow held in SRS auditorium. There were speakers set up in the parking lot since it was so crowded and drew a lot of fire. He gave a history of the leasing projects. **{Tape : 1; Side : B; Approx. Time Counter : 16.5 - 21}**

Proponents: Jack Stultz, Water Resources Division DNRC, presented written testimony. **EXHIBIT(nah48a10)** He explained the longer leases would permit DFWP to make substantial improvements to their facilities and reduce the renewal efforts for both agencies. **{Tape : 1; Side : B; Approx. Time Counter : 21 - 24.9}**

Pat Graham, Director Fish, Wildlife and Parks, presented written testimony. **EXHIBIT(nah48a11)** He stated that federal law requires FWP have either fee title or long term lease control of any site which uses federal money. **{Tape : 1; Side : B; Approx. Time Counter : 24.9 - 26.2}**

Opponents: None.

Questions from Committee Members and Responses: Rep. Ewer asked about cabin sites leased to the public for private use. Stultz replied there were quite a few. The land is owned by the state and leased for 10 year intervals. Rep. Ewer asked about fair market value for the leases. Stultz replied they were not too far off. The new program started in 1995. The establishment of the leases was going to be set at market assessment but the bill passed in 1995 said there could be no more than a 2% increase when the leases were renewed. **{Tape : 1; Side : B; Approx. Time Counter : 26.2}**

Closing by Sponsor: Sen. Ellis closed. He said the bill did not involve state leases of cabin sites and fair market value was in another bill. He pointed out this was not talking about a cabin on Whitefish Lake but a cabin on a reservoir which may be 1/3 filled in late summer. The bill is needed for FWP to access

money with their program. **{Tape : 1; Side : B; Approx. Time Counter : 32.3 - 34.9}**

EXECUTIVE ACTION ON SENATE BILL 98

Rep. Younkin **MOVED DO CONCUR.** **{Tape : 1; Side : B; Approx. Time Counter : 36}** Rep. Tash gave some background on the historical perspective of the legislation. Ten years ago the irrigators felt it was a run on the water. Rep. Story asked if lease renewals would go up in price. Rep. Tash felt they would go up to reflect market value. Rep. Harper pointed out the lease cost may come down as resistance fades. Rep. Tash said as long as the needs were met and there was a more efficient use of water it would be a benefit.

The question was called. The motion **PASSED** unanimously.

EXECUTIVE ACTION ON SENATE BILL 44

Rep. Ewer **MOVED DO CONCUR.** He felt the 10 year lease was okay. **{Tape : 1; Side : B; Approx. Time Counter : 42.3}**

Rep. Mood pointed out there were two types of cabin sites, one who is required to have their cabin lease go up exponentially and the other has a 2% cap which creates two classes of citizens based on who they were leasing the land from. Rep. Curtiss said the disparity could be attributed to where the land was located. Land on Flathead or Whitefish Lake have a greater recreational value in comparison to mud flats.

The question was called. The motion **PASSED** unanimously.

ADJOURNMENT

Adjournment: 4:50 P.M.

REP. BILL TASH, Chairman

DEB THOMPSON, Secretary

BT/DT

EXHIBIT (nah48aad)